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December 7, 2016

Gina McCarthy
Administrator
Environmental Protection Agency
Office of the Administrator 1101A
1200 Pennsylvania Avenue, N.W.
Washington DC 20460

RE: Request to Withdraw Proposed Determination, or for Extension of Deadline to Comment on
Proposed Determination on the Appropriateness of the Model Year 2022-2025 Light-duty
Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation

Dear Administrator McCarthy:

The Association of Global Automakers, Inc. (Global Automakers)¹ respectfully requests that the U.S. Environmental Protection Agency (EPA) either withdraw its Proposed Determination on the Appropriateness of the Model Year 2022-2025 Light-duty Vehicle Greenhouse Gas Emissions Standards under the Midterm Evaluation (the “Proposed Determination”), or grant an extension of the comment period from the current 30-day period to a total of not less than 120 days. Determining the appropriate standards for MY2022-2025 was to be based on a data-driven and objective review process where the EPA, National Highway Traffic Administration (NHTSA) and California Air Resources Board (CARB) are aligned every step of the way. Global Automakers remains committed to the goals of the joint national program and to the previously agreed-to Midterm Evaluation process for achieving those goals. We are therefore asking the EPA to grant this request so that its determination of the appropriate MY2022-2025 standards can be coordinated with the actions of the other relevant agencies. Granting this request is also necessary to provide a fair and thorough assessment of the critical issues at stake in this important rulemaking based on the most up-to-date data and scientific analysis, which cannot be accomplished under this very abbreviated comment schedule.

¹ The Association of Global Automakers represents international motor vehicle manufacturers, original equipment suppliers, and other automotive-related trade associations. We work with industry leaders, legislators, and regulators in the United States to create public policies that improve motor vehicle safety, encourage technological innovation, and protect our planet. Our goal is to foster an open and competitive automotive marketplace that encourages investment, job growth, and development of vehicles that can enhance Americans’ quality of life. For more information, please visit www.globalautomakers.org.



As you are aware, the Midterm Evaluation was a foundational underpinning of the joint fuel economy/greenhouse gas (GHG) emission standards that were finalized by the EPA and NHTSA in 2012. Given that NHTSA is statutorily prevented from promulgating fuel economy standards more than five years at a time, and that the EPA standards were being set more than ten years into the future, having an objective and data-driven Midterm Evaluation was and remains necessary to ensure that the future standards are feasible, cost-effective, and achieve the goals of the two relevant statutes under a single national program.

The Midterm Evaluation was designed to result in a proposed NHTSA rule concerning MY2022-2025 fuel economy standards and then a final rule, as well as a proposed and final determination from the EPA concerning the GHG emission standards for those years. Importantly, the processes of the two federal agencies were intended to be aligned at every juncture. As explained in the preamble to the 2012 rulemaking:

In order to align the agencies' proceedings for MYs 2022–2025 and to maintain a joint national program, if the EPA determination is that its standards will not change, ***NHTSA will issue its final rule concurrently with the EPA determination. If the EPA determination is that standards may change, the agencies will issue a joint NPRM and joint final rule.***²

Additionally, the EPA recognized in 2012 the need for a robust period of public comment on the Midterm Evaluation—both with respect to the draft Technical Assessment Report (TAR) and also with respect to the EPA determination itself.

There will be an opportunity for public comment on the draft TAR, and appropriate peer review will be performed of underlying analyses in the TAR. . . . EPA will also seek public comment on whether the standards are appropriate under section 202(a), *e.g.* comments to affirm or change the GHG standards (either more or less stringent). The agencies [*i.e.* both EPA and NHTSA] will carefully consider comments and information received and respond to comments in their respective subsequent final actions.³

Finally, the EPA and NHTSA have consistently been very transparent about the timeline for the Midterm Evaluation. The final NHTSA rule and EPA determination were expected by April 1, 2018,⁴ with a

² *Id.* at 62,633 (emphases added).

³ *Id.* at 62,784.

⁴ *Id.*



proposed rule and a proposed determination expected in the summer of 2017.⁵

Seemingly inexplicably, the EPA has changed course dramatically, and has issued its Proposed Determination: (a) far ahead of the previously-established schedule, (b) separately from NHTSA's fuel economy rulemaking, and (c) with a truncated, less than 30-day comment period following publication in the Federal Register.⁶ In doing so, the agency has seriously prejudiced our ability to provide meaningful input on the Proposed Determination.

Global Automakers believes that the EPA's acceleration of its proposed determination process so that it no longer aligns with NHTSA's rulemaking was improper and contrary to the spirit and intent of the joint national fuel economy/GHG program. The EPA should issue its proposed determination at the same time that NHTSA releases its notice of proposed rulemaking on the MY2022-2025 CAFE standards (which we expect in the summer of 2017), and the two agencies should then jointly issue the final rule/determination. Doing so will ensure that the actions of both agencies are coordinated and harmonized to the greatest extent possible. Divorcing the rulemaking processes of the two agencies (as the EPA has done) raises the risk that each will come to different conclusions concerning the appropriate stringency of the standards and the specific compliance mechanisms automakers can employ to achieve the standards.⁷

Setting the acceleration of the Proposed Determination aside, the 30-day comment period will make it extremely difficult for automakers to provide meaningful comment on the document. The Proposed Determination and the accompanying Technical Support Document that were released on November 30 consist of almost 1,000 pages, and rely on almost 1,100 studies. This material—which includes a number of significant new assumptions, analyses and studies—forms the basis of the EPA's determination that the GHG emission standards for MY2022-2025 should remain unchanged. The new material and analyses presented in the Proposed Determination is indeed substantial. For example, the EPA has completely re-run the OMEGA computer model simulation of the MY2022 to MY2025 standards, and has made many significant changes to the underlying inputs on technology cost and technology effectiveness. In addition, the Proposed Determination and the accompanying Technical Support Document contain entirely new

⁵ See <https://www.epa.gov/sites/production/files/2016-10/documents/grundler-sae-naipc-2015-09-17-presentation.pdf> at 24 (indicating that the EPA Proposed Determination and NHTSA notice of proposed rulemaking would be released mid-2017 and the final determination made in April 2018).

⁶ Despite the open and transparent nature of the process to date, the EPA issued its Proposed Determination after providing just a couple hour's notice to the industry.

⁷ Additionally, we note that the Proposed Determination concerns only the numeric stringency of the GHG emission standards (*i.e.*, the footprint-based curves), but does not address the parameters of other important aspects of the program that impact manufacturer compliance (*e.g.*, the provisions for averaging, banking and trading of credits and the off-cycle credit program). All of these questions should be addressed in the same EPA/NHTSA determination and rulemaking process. Withdrawing the Proposed Determination will allow the EPA to consider all of these questions in coordination with NHTSA, as was envisioned in the 2012 rulemaking.



engineering methodologies.⁸ As the regulated parties, Global Automakers and our members are entitled to an opportunity to review and analyze this material and to provide meaningful comment. Thirty days (concluding on December 30, 2016) simply is not enough time to do so—especially given that the comment period includes the holiday period between Christmas and New Year’s, during which most manufacturers are closed and staff are on holiday.

We note that the 30-day comment period provided in the Proposed Determination is unprecedented in a regulatory action of this significance. For example, the proposed rule on the original joint fuel economy/greenhouse gas emission regulations promulgated by the EPA and NHTSA in 2009 provided for a 60-day comment period, which commenced *after* publication in the Federal Register (which was 2 weeks after the notice of proposed rulemaking was signed).⁹ The 2012 rulemaking also followed a 60-day comment period after publication in the Federal Register.¹⁰ EPA’s determination on the MY2022-2025 GHG emission standards is just as complex and significant as the prior rulemakings (if not more so), and there is no reason at all for such an abbreviated comment period.

Finally, we are concerned that the EPA’s actions in rushing out the Proposed Determination and the abbreviated 30-day comment period will impact our ability to rely on detailed technical analyses that are currently underway. Based on the agencies’ previous statements about the timing of the Midterm Evaluation, Global Automakers and the Alliance of Automobile Manufacturers (Auto Alliance) commissioned several studies that are in-process and will not be completed by December 30, 2016. We informed the EPA of this work in our comments on the draft TAR, and the EPA had previously committed to considering such relevant information submitted after the close of the comment period on the draft TAR,¹¹ as we confirmed in a follow-up letter.¹² Global Automakers and the Auto Alliance have committed significant resources to these studies based on the expectation that the agencies, including the EPA, would take them into account in the final determination/rulemaking—which was to take place in the 2017 to 2018 time period. If the EPA insists on pursuing the Proposed Determination with the comment period closing

⁸ Included in Appendix A of the Proposed Determination is a list of the key updates made to the technology assessment in the Proposed Determination. These updates include (but are not limited to): (a) an updated baseline fleet based on MY2015 GHG compliance data; (b) updated projections of future fuel prices and vehicle sales based on the 2016 Energy Information Administration’s Annual Energy Outlook; (c) expanded vehicle classification structure from 19 to 29 vehicle types; (d) updated characterization and modeling of certain advanced engine technologies; (e) revised effectiveness estimates for certain advanced transmission technologies; and (f) a new methodology and OMEGA modeling approach regarding off-cycle technologies. All of the new and updated analyses in the Proposed Determination and the Technical Support Document will need to be reviewed and commented on.

⁹ See 74 Fed. Reg. 49,454 (Sept. 28, 2009) (requesting that comments be submitted by November 27).

¹⁰ See 76 Fed. Reg. 74,854 (Dec. 1, 2011) (requesting that comments be received on or before January 30, 2012).

¹¹ See August 22, 2016 Letter from Janet McCabe and Paul Hemmersbaugh to Chris Nevers and Julia Rege.

¹² See September 9, 2016 Letter from Julia Rege and Chris Nevers to Janet McCabe and Paul Hemmersbaugh.



on December 30, and if the 30-day comment period is the last opportunity for automakers to provide input before a final determination is made, then Global Automakers will not be able to submit all of these materials in time for the agency's consideration in finalizing its determination.

EPA's determination as to whether the MY2022-2025 GHG emission standards should remain the same or should be adjusted in some manner must be made based on the most up-to-date and reliable information and must account for the input of all of the stakeholders. The EPA's seemingly inexplicable decision to rush ahead of NHTSA's rulemaking and issue its Proposed Determination over six months ahead of schedule, and its establishment of such an abbreviated comment period, threatens to undermine both the entire process and the purpose of the national program. We therefore request that the EPA either withdraw the Proposed Determination or extend the comment period to at least 120 days so that Global Automakers and its members will have a meaningful opportunity to provide comment.

Thank you for your prompt consideration of this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Bozzella".

John T Bozzella
President & CEO
Association of Global Automakers

cc: Docket ID No. EPA-HQ-OAR-2015-0827